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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,612	10/31/2003	David A. Kuen	KCC 4986 (K-C 19,585)	9606
321	7590	02/02/2006	EXAMINER	
SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/698,612	KUEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Melanie J. Hand	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) 30-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>Verous C4</u>   | 6) <input type="checkbox"/> Other: ____                                     |

## **DETAILED ACTION**

### ***Election/Restrictions***

This application contains claims directed to the following patentably distinct species of the claimed invention: (1) an absorbent article having a first and second substrate and corresponding adjacent first and second floating absorbent structures disposed therebetween, (2) an absorbent article having a first and second substrate and corresponding first and second absorbent structures attached thereto, and (3) an absorbent article having a substrate and an absorbent article attached to the substrate.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 30 and 54 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if

the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Richard Bridge on January 26, 2006 a provisional election was made with traverse to prosecute the invention of species (1), claims 1-29. Affirmation of this election must be made by applicant in replying to this Office action. Claims 30-65 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### ***Information Disclosure Statements***

The information disclosure statements (IDS) submitted on January 26, 2004, March 8, 2004, August 16, 2004 and August 2, 2005 were each filed after the mailing date of the Application on October 31, 2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker (U.S. Patent No. 5,863,288).

With respect to **Claims 1,25,26**: Baker teaches training pant 10 having a liquid-impermeable outer cover 12, liquid permeable bodyside layer 14 and absorbent core 16 disposed between said bodyside layer and said outer cover. Absorbent core 16 is comprised of at least one layer 30 that in turn comprises an array of storage cells 36 that are separated by acquisition zones 40. (Col. 3, lines 40-46, Col. 5, lines 57-62, Col. 7, lines 38-42) The size and shape of acquisition zones 40 are varied by varying the orientation of adjacent layers 30 with respect to one another. (Col. 9, lines 24-30) This teaching encompasses an embodiment in which the storage cells 36 of adjacent layers 30 are offset from one another such that the bottom of a first storage cell 36 in first layer 30 can be in superposed relationship with the acquisition space between storage cells 36 of a second layer and such that the storage cell from the first layer is also in superposed relationship with at least a portion of each of the two adjacent cells from the second layer 30.

With respect to **Claims 2-4**: Baker teaches that free edges of layers 30 (which includes the outer surfaces of storage cells 36) can be attached to liner sheet 14. or to backing sheet 12. (Col. 5, lines 41-44)

With respect to **Claim 5**: Baker teaches that adjacent storage cells can be attached to one another if desired. (Col. 7, lines 41-46) However, the absorbent core 16 taught by Baker does not require attachment of adjacent layers 30 to one another.

With respect to **Claims 6,7**: Baker teaches that backing sheet 12 is pliable (Col. 4, lines 22,23). Since Baker does not teach explicitly that the layers 30 must be attached, when backing sheet 12 is stretched, any of layers 30 is capable of having storage cells 36 that are in superposed

relationship with at least a portion of two adjacent storage cells on an adjacent layer. With respect to Claim 7, said layers 30 are also capable of separating from one another upon stretching, as stretching may also pull a layer 30 so as to have storage cells 36 in superimposed relationship with corresponding regions on adjacent storage cells on an adjacent layer 30.

With respect to **Claim 8**: Baker teaches that backing sheet 12 is made from polyethylene (Col. 4, lines 24,25), which is an elastic material.

With respect to **Claims 9,10**: Baker teaches that storage cells 36 are discrete entities. (Col. 5, line 57)

With respect to **Claims 11,12**: Baker teaches storage cells 36 that are partially overlapping in a transverse direction and are therefore separated by a distance less than 5mm (Fig. 2d) (Col. 5, lines 10-13)

With respect to **Claim 13**: Baker teaches that glue stripes can be applied to the mid-region of each storage cell 36, therefore implicitly teaching that the length and width of the glue stripe is less than the respective length and width of said storage cell. As stated previously, the free edges of layers 30 are attached to liner sheet 14.

With respect to **Claim 14**: As can best be seen in Figs. 4-6, and as taught by Baker, different layers 30 can have similar or dissimilar patterns of storage cells, therefore a interconnection of adjacent cells is capable of being achieved.

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With respect to **Claims 15,16**: Baker teaches that acquisition zones 40 are devoid of superabsorbent material (Col. 7, line 67), therefore the density of absorbent material in said zones 40 is less than the density of absorbent material in storage cells 36. With respect to Claim 16, since the density of superabsorbent is less in the zones 40, the basis weight of superabsorbent material in the zones 40 will be less than the basis weight of superabsorbent in the storage cells 36 as well.

With respect to **Claims 17,18**: Baker teaches that layers 30 have storage cells 36 of varying size and shape from other cells 36 in the same layer, or from those in other layers. (Col. 9, lines 17,18)

With respect to **Claims 19,20,29**: Baker teaches that storage cells 36 comprise superabsorbent material 34 mixed with hydrophilic fibers. (Col. 6, lines 54-57, Col. 7, lines 8-11)

With respect to **Claim 21**: Since Baker teaches that superabsorbent 34 can be mixed with other fibers or pulp fluff and that storage cells 36 are of different shapes and sizes, Baker implicitly teaches that superabsorbent material 34 will be present in varying concentrations among the storage cells, owing to the varying bulk of fibers, fluff pulp and various superabsorbent materials.

With respect to **Claims 22,23**: As can best be seen in Fig. 2d, Baker teaches a structure wherein, in the presence of multiple layers 30 of the depicted structure, any storage cell 36 will be in overlapping relationship with two adjacent storage cells 36 in an adjacent layer 30, as well as be in overlapping relationship with acquisition zones 40.

With respect to **Claims 24,27**: Since Baker teaches varying patterns for storage cells 36 in a layer 30 and various orientations of layers 30 with respect to one another, the teaching of Baker is capable of yielding a core 16 wherein layers 30 are arranged such that a storage cell can be in overlapping relationship with at least a portion of at least four adjacent cells and with the acquisition zone 40 defined therein. With respect to Claim 27, as stated previously, Baker also teaches varying shapes and sizes for storage cells 36, which would encompass a teaching of at least one storage cell having an orientation that is different from a second storage cell, e.g. a straight rectangular segment forming storage cells according to the process taught by Baker (Col. 5, lines 63-67, Col. 6, lines 1-15) versus a curved segment of material used in said process.

With respect to **Claim 28**: Baker teaches that storage cells 36 are formed by depositing superabsorbent material on a sheet of liquid-pervious material, superimposing a second sheet over the pattern of absorbent material, and then sealing the sheets together, encapsulating the absorbent material. (Col. 6, lines 3-15)

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

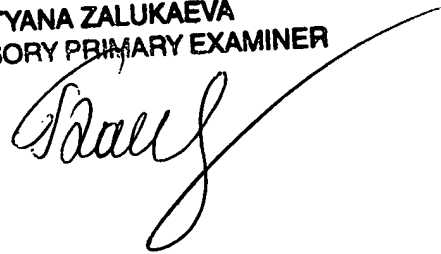


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Melanie J Hand  
Examiner  
Art Unit 3761

MJH

**TATYANA ZALUKAEVA**  
**SUPERVISORY PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to read 'Tatyana', is written over the printed name and title of the Supervisory Primary Examiner.